

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2218

To amend the Internal Revenue Code of 1986 to provide an election to exclude from the gross estate of a decedent the value of certain land subject to a qualified conservation easement, and to make technical changes to alternative valuation rules.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 4, 1996

Mr. GILCHREST introduced the following bill; which was referred to the  
Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide an election to exclude from the gross estate of a decedent the value of certain land subject to a qualified conservation easement, and to make technical changes to alternative valuation rules.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Farmland Preservation  
5       Act of 1995”.

1 **SEC. 2. TREATMENT OF LAND SUBJECT TO A QUALIFIED**  
2 **CONSERVATION EASEMENT.**

3 (a) ESTATE TAX WITH RESPECT TO LAND SUBJECT  
4 TO A QUALIFIED CONSERVATION EASEMENT.—Section  
5 2031 of the Internal Revenue Code of 1986 (relating to  
6 the definition of gross estate) is amended by redesignating  
7 subsection (c) as subsection (d) and by inserting after sub-  
8 section (b) the following new subsection:

9 “(c) ESTATE TAX WITH RESPECT TO LAND SUB-  
10 JECT TO A QUALIFIED CONSERVATION EASEMENT.—

11 “(1) IN GENERAL.—If the executor makes the  
12 election described in paragraph (3), then, except as  
13 otherwise provided in this subsection, there shall be  
14 excluded from the gross estate the value of land sub-  
15 ject to a qualified conservation easement (reduced by  
16 the amount of any indebtedness to which such land  
17 is subject).

18 “(2) TREATMENT OF RETAINED DEVELOPMENT  
19 RIGHT.—

20 “(A) IN GENERAL.—Paragraph (1) shall  
21 not apply to the value of any development right  
22 retained by the donor in the conveyance of a  
23 qualified conservation easement. The tax im-  
24 posed by section 2001 (if any) attributable to  
25 any development right so retained shall be im-  
26 posed only upon the disposition of such prop-

erty. The tax so imposed shall be due and payable by the person so disposing of such property on the 15th day of the 4th month following the calendar year in which such disposition occurs.

“(B) DEFINITIONS.—For purposes of this paragraph—

“(i) DISPOSITION.—The term ‘disposition’ shall not include any gift or devise.

“(ii) DEVELOPMENT RIGHT.—The term ‘development right’ means the right to establish or use any structure and the land immediately surrounding it for sale, rent, or any other commercial purpose which is not subordinate to and directly supportive of—

“(I) the conservation purpose identified in the easement, or

“(II) the activity of farming, forestry, ranching, horticulture, viticulture, or recreation (whether or not for profit) conducted on land subject to the easement in which such right is retained.

“(3) ELECTION.—The election under this subsection shall be made on the return of the tax im-

1 posed by section 2001. Such an election, once made,  
2 shall be irrevocable.

3 “(4) CALCULATION AND NOTICE OF POTENTIAL  
4 ESTATE TAX DUE.—An executor making the election  
5 described in paragraph (3) shall compute the  
6 amount of tax imposed by section 2001 upon any de-  
7 velopment right (as defined in paragraph (2)) re-  
8 tained by the donor in the conveyance of such quali-  
9 fied conservation easement and include such com-  
10 putation with the return of the tax imposed by sec-  
11 tion 2001. The executor shall also file a ‘Notice of  
12 Potential Estate Tax Due’ in the place or places  
13 where deeds are put to public record for the locality  
14 in which the land subject to such qualified conserva-  
15 tion easement is located. The report of the computa-  
16 tion of tax on any retained development right and  
17 the filing of the notice prescribed in this paragraph  
18 shall be done in such manner and on such forms as  
19 the Secretary shall prescribe.

20 “(5) DEFINITIONS.—For purposes of this sub-  
21 section—

22 “(A) LAND SUBJECT TO A QUALIFIED  
23 CONSERVATION EASEMENT.—The term ‘land  
24 subject to a qualified conservation easement’  
25 means land—

1 “(i) which is located in or within 50  
2 miles of an area which, on the date of the  
3 decedent’s death, is—

4 “(I) a metropolitan area (as de-  
5 fined by the Office of Management  
6 and Budget), or

7 “(II) a National Park or Na-  
8 tional Seashore (unless it is deter-  
9 mined by the Secretary that land in or  
10 within 50 miles of such Park or Sea-  
11 shore is not under significant develop-  
12 ment pressure),

13 “(ii) which was owned by the decedent  
14 or a member of the decedent’s family at all  
15 times during the 3-year period ending on  
16 the date of the decedent’s death, and

17 “(iii) with respect to which a qualified  
18 conservation easement is or has been made  
19 by the decedent or a member of the dece-  
20 dent’s family.

21 “(B) QUALIFIED CONSERVATION EASE-  
22 MENT.—The term ‘qualified conservation ease-  
23 ment’ means a qualified conservation contribu-  
24 tion (as defined in section 170(h)(1)) of a quali-  
25 fied real property interest (as defined in section

1 170(h)(2)(C)). Clause (iv) of section  
2 170(h)(4)(A) shall not apply for purposes of the  
3 preceding sentence.

4 “(C) MEMBER OF FAMILY.—The term  
5 ‘member of the decedent’s family’ means any  
6 member of the family (as defined in section  
7 2032A(e)(2)) of the decedent.”

8 (b) CARRYOVER BASIS.—Section 1014(a) of such  
9 Code (relating to basis of property acquired from a dece-  
10 dent) is amended by striking the period at the end of para-  
11 graph (3) and inserting “, or” and by adding after para-  
12 graph (3) the following new paragraph:

13 “(4) to the extent of the applicability of the ex-  
14 clusion described in section 2031(c), the basis in the  
15 hands of the decedent.”

16 (c) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to estates of decedents dying after  
18 December 31, 1994.

19 **SEC. 3. GIFT TAX ON LAND SUBJECT TO A QUALIFIED CON-**  
20 **SERVATION EASEMENT.**

21 (a) GIFT TAX WITH RESPECT TO LAND SUBJECT TO  
22 A QUALIFIED CONSERVATION EASEMENT.—Section 2503  
23 of the Internal Revenue Code of 1986 (relating to taxable  
24 gifts) is amended by adding at the end the following new  
25 subsection:

1       “(h) GIFT TAX WITH RESPECT TO LAND SUBJECT  
2 TO A QUALIFIED CONSERVATION EASEMENT.—The trans-  
3 fer by gift of land subject to a qualified conservation ease-  
4 ment shall not be treated as a transfer of property by gift  
5 for purposes of this chapter. For purposes of this sub-  
6 section, the term ‘land subject to a qualified conservation  
7 easement’ has the meaning given to such term by section  
8 2031(c); except that references to the decedent shall be  
9 treated as references to the donor and references to the  
10 date of the decedent’s death shall be treated as references  
11 to the date of the transfer by the donor.”

12       (b) EFFECTIVE DATE.—The amendment made by  
13 this section shall apply to gifts made after December 31,  
14 1994.

15 **SEC. 4. QUALIFIED CONSERVATION CONTRIBUTION IS NOT**  
16 **A DISPOSITION.**

17       (a) QUALIFIED CONSERVATION CONTRIBUTION IS  
18 NOT A DISPOSITION.—Subsection (c) of section 2032A of  
19 the Internal Revenue Code of 1986 (relating to alternative  
20 valuation method) is amended by adding at the end the  
21 following new paragraphs:

22               “(8) QUALIFIED CONSERVATION CONTRIBUTION  
23 IS NOT A DISPOSITION.—A qualified conservation  
24 contribution (as defined in section 170(h)) by gift or

1 otherwise shall not be deemed a disposition under  
2 subsection (c)(1)(A).

3 “(9) EXCEPTION FOR REAL PROPERTY IS LAND  
4 SUBJECT TO A QUALIFIED CONSERVATION EASE-  
5 MENT.—If qualified real property is land subject to  
6 a qualified conservation easement (as defined in sec-  
7 tion 2031(c)), the preceding paragraphs of this sub-  
8 section shall not apply.”

9 (b) LAND SUBJECT TO A QUALIFIED CONSERVATION  
10 EASEMENT IS NOT DISQUALIFIED.—Subsection (b) of  
11 section 2032A of such Code (relating to alternative valu-  
12 ation method) is amended by adding at the end the follow-  
13 ing paragraph:

14 “(E) If property is otherwise qualified real  
15 property, the fact that it is land subject to a  
16 qualified conservation easement (as defined in  
17 section 2031(c)) shall not disqualify it under  
18 this section.”

19 (c) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply with respect to contributions made,  
21 and easements granted, after December 31, 1994.

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